



The Attorney General of Texas

April 10, 1981

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Honorable Garland W. Fulbright
Executive Director
Commission on Fire Protection
Personnel Standards & Education
510 S. Congress, Suite 406
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Opinion No. MW-320

Re: Authority of the Commission
on Fire Protection Personnel
Standards and Education to
promulgate mandatory certification
requirements for positions
other than entry level fire
protection personnel

Dear Mr. Fulbright:

You have requested our opinion regarding the authority of the Commission on Fire Protection Personnel Standards and Education to promulgate mandatory certification requirements for inspectors.

Section 2 of article 4413(35), V.T.C.S., empowers the commission to:

(2) establish minimum educational, training, physical, mental, and moral standards for admission to employment as fire protection personnel in permanent positions or in temporary or probationary status; [and]

(3) certify persons as being qualified under the provisions of this Act to be fire protection personnel;

See also §6(c). Section 2 clearly authorizes the commission to establish minimum certification requirements only "for admission to employment as fire protection personnel." You indicate that persons are not "admitted to employment" as fire inspectors.

In only two instances does the statute allude to certification of specialties in addition to the basic certification: section 2(4) authorizes the board to certify persons as "fire protection instructors," and section 6(h) directs the board to formulate requirements for certification as a marine fireman. In our opinion, the board, except for these two specialties, may establish minimum requirements only for people seeking admission to employment as fire protection personnel. We do not believe the commission has authority to establish certification requirements for an additional

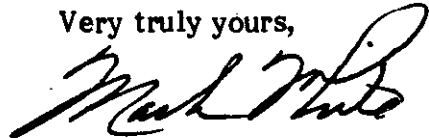
specialty, such as fire inspector. We are supported in this conclusion by reference to other licensing statutes. When the legislature has intended to authorize licensing boards to certify specialties within a basic discipline, it has specifically said so and has delineated the parameters of that authority. See, e.g., V.T.C.S. art. 4512c, §8(b) (Board of Examiners of Psychologists); art. 4512e, §§8, 9 (Board of Physical Therapy Examiners); art. 4582b, §3B (Board of Morticians). See also Attorney General Opinions MW-42 (1979) (Board of Nurse Examiners may not certify advanced nurse practitioners absent statutory authority); H-870 (1976) (Commission on Alcoholism may not certify persons as alcoholism counselors).

We conclude that the Commission on Fire Protection Personnel Standards and Education lacks statutory authority to promulgate mandatory certification requirements for fire inspectors.

S U M M A R Y

The Commission on Fire Protection Personnel Standards and Education lacks authority to promulgate mandatory certification requirements for fire inspectors.

Very truly yours,



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